

Message Text

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PAGE 01 STATE 275361

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TO AMEMBASSY CAIRO IMMEDIATE

C O N F I D E N T I A L STATE 275361

LIMDIS

E.O. 11652: GDS

TAGS: PFOR, EFIN, EG, US

SUBJECT: U.S. CLAIMS AGAINST EGYPT: REQUEST FOR
AUTHORIZATION TO INITIAL FINAL DRAFT AGREEMENT AD
REFERENDUM

REFS: (A) CAIRO 11745, (B) STATE 270728

1. DEPARTMENT CONCURS WITH CHANGES SUGGESTED IN PARAGRAPHS 3 AND 4 OF REFTEL (A) REGARDING DOCUMENT 2, DRAFT AGREEMENT, ARTICLE 1, PARAGRAPH 2, AND DOCUMENT 4, DRAFT MEMORANDUM OF UNDERSTANDING CONCERNING CLAIMS.

2. REGARDING DRAFT AGREED MINUTE (DOCUMENT 1), PARAGRAPH 3, AND AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ARAB REPUBLIC
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PAGE 02 STATE 275361

OF EGYPT CONCERNING CLAIMS OF NATIONALS OF THE UNITED

STATES (DOCUMENT 2), ARTICLE 8, PARAGRAPH 1, DEPARTMENT UNDERSTANDS EGYPTIAN LEGAL PROCEDURE REQUIRING THAT AGREEMENT ENTER INTO FORCE ONLY AFTER FINAL SIGNATURE AND APPROVAL BY EGYPTIAN ASSEMBLY. WE HAVE NO OBJECTION, OF COURSE, TO SUCH PROCEDURE. HOWEVER, CLAIMS SETTLEMENT AGREEMENTS TRADITIONALLY HAVE BEEN AND ARE REGARDED BY USG AS EXECUTIVE AGREEMENTS NOT REQUIRING SUBMISSION TO THE

CONGRESS OR TO THE SENATE FOR ADVICE AND CONSENT. WE FEEL STRONGLY THAT ANY REFERENCE TO AGREEMENT ENTERING INTO FORCE AFTER BOTH GOVERNMENTS HAVE INFORMED EACH OTHER THAT THEIR RESPECTIVE CONSTITUTIONAL REQUIREMENTS HAVE BEEN COMPLIED WITH SHOULD BE AVOIDED. IN VIEW OF OUR RECENT PROBLEMS WITH CONGRESS ON EXECUTIVE AGREEMENTS (BENTSEN, GLENN BILLS, ETC.), A SPECIFIC REFERENCE TO COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS COULD WELL RAISE QUESTION ABOUT NECESSITY OF SUBMITTING CLAIMS AGREEMENT TO SENATE FOR ADVICE AND CONSENT, OR TO CONGRESS FOR APPROVAL. NONETHELESS, WE OF COURSE WILL CONSULT WITH APPROPRIATE MEMBERS OF THE CONGRESS PRIOR TO CONCLUDING THE AGREEMENT.

3. WE ACCORDINGLY SUGGEST YOU EXPLAIN USG PROBLEM IN NOT AGREEING TO PROPOSED LANGUAGE REGARDING COMPLIANCE WITH RESPECTIVE CONSTITUTIONAL REQUIREMENTS, AND THAT YOU STRONGLY REQUEST ACCEPTANCE BY THE GOVERNMENT OF EGYPT OF FOLLOWING LANGUAGE IN LIEU THEREOF: "IT SHALL ENTER INTO FORCE UPON SIGNATURE AND AN EXCHANGE OF NOTES STATING EACH GOVERNMENT'S FINAL APPROVAL OF THE AGREEMENT." THIS FORMULATION WILL FULLY PERMIT GOE TO COMPLY WITH ITS DOMESTIC REQUIREMENTS. KISSINGER

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